



STATE OF MARYLAND
OFFICE OF THE ATTORNEY
GENERAL



May 11, 2021

The Honorable Lawrence J. Hogan, Jr.
Governor
State House
100 State Circle
Annapolis, Maryland 21401-1925

Dear Governor Hogan:

With the passage of HB 18 establishing an Access to Counsel in Evictions Program for income-eligible Marylanders (the “Program”), Maryland is poised to have a powerful new tool to fend off the looming eviction crisis and the resulting harm to Maryland’s families, public health, and economy.

A timely and efficient implementation of the Program is imperative, especially given the end of a national eviction moratorium. We therefore urge you to allocate \$68 million, a small portion of the billions of dollars in federal relief funds coming to the State, to fund the implementation of the Program. Specifically, we request allocation from the following federal sources:

- \$20.4 million from the Emergency Rental Assistance Program
- \$47.6 million in Coronavirus State Fiscal Recovery Funds

As the General Assembly recognized in passing HB 18, access to counsel in eviction proceedings is a “proven means of preventing the disruptive displacement of families and the resulting social, economic, and public health costs of such displacement.” And as the attached proposal explains, Maryland is fortunate to have the requisite expertise and an existing statewide civil legal aid infrastructure that can be scaled to begin implementing the Program immediately. Once fully implemented, the Program is expected to provide access to legal counsel for approximately 34,000 Maryland households facing eviction.

In addition to helping a significant number of Marylanders retain their homes, the Program will bolster the State’s efforts to efficiently distribute to landlords the \$800 million of available rental assistance; ensure more equitable outcomes in housing preservation, in urban and rural settings and in Black and Brown communities; and yield as much as \$59.5 million in *cost savings* to the State.

We appreciate that you understand how important it is to make sure that Maryland families have stable housing during this ongoing public health crisis and the unprecedented economic chaos

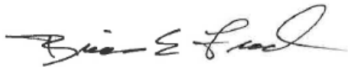
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precipitated by the global pandemic. Allocating federal funds to allow for implementation of the Program provides your Administration with a remarkable opportunity to help balance the scales of justice and significantly reduce the individual trauma and societal costs of eviction. We look forward to working with you to make the Program a reality for Maryland families.

We are available at your earliest convenience to discuss this matter further. Thank you for your consideration.

Sincerely,



Brian E. Frosh
Attorney General
of Maryland



Susan Erlichman
Executive Director,
Maryland Legal
Services Corporation



Reena K. Shah
Executive Director,
Maryland Access to
Justice Commission

Enclosure

cc: Secretary Kenneth C. Holt, Department of Housing and Community Development
Secretary David R. Brinkley, Department of Budget and Management

Request for Allocation of Federal Funds to the Access to Counsel in Evictions Special Fund

I. Introduction

A. An Unprecedented Eviction Crisis

Mass evictions are on the horizon for hundreds of thousands of Maryland families. While housing insecurity has long been a significant problem in Maryland and the United States, the devastating economic fallout from the COVID-19 pandemic has caused an unprecedented housing crisis for Marylanders—especially for low-income and at-risk individuals, survivors of domestic violence, and communities of color. Prior to the pandemic, Maryland had an outsized number of eviction court case filings—over 650,000 annually—and over 20,000 evictions per year. Data from pre-pandemic studies also convincingly showed that evictions disproportionately impacted Black and Latinx women and communities of color.

The pandemic has only exacerbated this situation. Estimates based on U.S. Census survey data indicate that, as of the end of March 2021, approximately 121,000 Maryland households—almost 20% of rental households in the State—were behind on rent, with an average rent debt per household of around \$4,200. Although evictions impact both urban and rural areas of the State, data show that the housing crisis continues to disproportionately harm the very same communities of color that have already borne the harshest brunt of the COVID-19 health and economic crisis. Indeed, a staggering 86% of Marylanders currently behind on rent are people of color.¹

The loss of a home is a traumatic and destabilizing event in and of itself, but an eviction carries with it a myriad of other collateral consequences, including possible job loss and strain on physical and mental health. For children, it can mean trauma, poor educational outcomes, and stunted development. In addition to the toll on children, families, and the economy, the State also incurs significant expenses from evictions resulting from the increased burden on law enforcement, judicial resources, shelters, healthcare, and foster care. All told, eviction and its collateral consequences destabilize individuals and families; divert valuable State resources; and undercut the State's other significant efforts at equitable health, educational, employment outcomes and an equitable economic recovery.²

To confront the eviction crisis, at least seven jurisdictions around the country have already started implementing right to counsel programs. These programs demonstrate tangible benefits in the reduction of evictions. In New York City, 86% of represented tenants remained in their homes, and eviction filings decreased by 30%.³ In Cleveland, 93% of represented tenants have

¹ These statistics were taken from the National Equity Atlas's Rent Debt Dashboard, which provides current state- and county-level data regarding rent debt derived from the U.S. Census Bureau's Household Pulse Survey. See PolicyLink/USC Equity Research Institute, National Equity Atlas, www.nationalequityatlas.org/rent-debt (last visited May 5, 2021).

² See Stout Risius Ross, LLC, *The Economic Impact of an Eviction Right to Counsel in Baltimore City*, at 34-39 (May 8, 2020), available at <https://bmorerentersunited.org/rtc/stoutreport> ("Stout Study").

³ New York City Human Resources Admin., *Universal Access to Legal Services: A Report on Year Three of Implementation in New York City*, at 11 (Fall 2020), available at https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2020.pdf.

avoided an eviction or involuntary move.⁴ Based on a randomized survey of eviction actions in Baltimore City in 2019, Stout Risius & Ross projected that 92% of represented tenants would avoid disruptive displacement in eviction actions (“Stout Study”).⁵

Integrating legal services into other eviction prevention and stability efforts has been the key to robust outcomes. The provision of counsel is often a key component to maintaining stable housing, but also is often the most overlooked.

In Maryland, the lack of full integration of civil legal services with emergency relief means that even with substantial rental assistance funds available, large numbers of Marylanders remain at risk of losing their homes. Although counsel does not change the facts of a given eviction case, it does ensure that current legal protections are enforced when applicable. One illustration of the importance of counsel in securing the fair administration of justice is the 3,335 Maryland tenant households that were evicted from July 2020 through February 2021,⁶ in the midst of COVID-19, despite the eviction protections ordered by Governor Hogan and the Centers for Disease Control and Prevention. Access to counsel in this critical context could have assured that the emergency eviction moratoria were understood by tenants and applied evenly throughout the State.

In addition to helping tenants navigate the legal complexities of an eviction proceeding, counsel can connect tenants to other needed resources and services, including rental assistance, social workers, food assistance, job training, and even relocation options. When civil legal aid organizations work closely with other service providers, they are able to prevent eviction; sustain affordable and safe housing; address other basic human needs; and improve health, educational, and other social outcomes.

B. The Historic Passage of HB 18 and the Funding Opportunity

Understanding both the stakes of the eviction crisis and the cost-effectiveness of access to counsel as a tool to addressing it, the General Assembly passed HB 18 to provide statewide access to counsel in eviction actions for income-eligible households. As the legislature recognized, giving tenants access to counsel in eviction proceedings is a “proven means of preventing the disruptive displacement of families and the resulting social, economic, and public health costs of such displacement.”⁷ The State has also recognized the critical importance that

⁴ United Way Greater Cleveland et al., *Right to Counsel: Annual Report to Cleveland City Council and Courtesy Report to Cleveland Mayor’s Office*, at 2 (Jan. 31, 2021), available at <https://unitedwaycleveland.org/wp-content/uploads/documents/2020-Right-to-counsel-annual-report.pdf>.

⁵ Stout Study at 11. As used in the Stout Study and herein, “disruptive displacement” includes both executed evictions and circumstances under which the eviction and relocation process throw some aspect of the tenant’s life into disarray.

⁶ Evictions by county are included in the District Court of Maryland monthly statistical reports. See Md. Courts, About District Court, Statistics, <https://www.courts.state.md.us/district/about#stats> (last visited May 5, 2021).

⁷ H.B. 18, 442nd Gen. Assemb., Reg. Sess. (Md. 2021), <https://mgaleg.maryland.gov/2021RS/bills/hb/hb0018E.pdf> (hereinafter “HB 18”).

legal representation can play in stabilizing housing by allocating both federal and State funds to eviction prevention legal services since the pandemic began.⁸

Final enactment of HB 18 will make Maryland a leader in combating housing instability by becoming the second state in the nation to provide statewide access to counsel in eviction actions for income-eligible households.⁹ But while HB 18 creates the Access to Counsel in Evictions Program (the “Program”), the legislation will not have the desired effect of helping to avert the impending eviction crisis without the immediate allocation of funding to the Access to Counsel in Evictions Special Fund (the “Access Fund”).¹⁰

Due to federal funds coming to the State through a number of economic relief programs, Maryland has a rare and immediate opportunity to invest in the successful implementation of the Program. We therefore urge the Governor and the Department of Budget and Management to allocate a small portion of the billions of dollars in federal emergency funds to the Access Fund. Specifically, we are asking for the allocation at least \$20.4 million of the State’s federal Emergency Rental Assistance program (“ERAP”) funding, along with an additional \$47.6 million of the State’s federal Coronavirus State and Local Fiscal Recovery Funds (“CSFRF”). More information about each of these funding sources is attached as an appendix to this proposal, and our request is described in more detail in Part IV below.

II. Access to Counsel Will Ensure the Effective Distribution of Rental Assistance, Prevent Evictions, and Improve Housing Stability

A. Access To Counsel Will Help the State Distribute Rental Assistance Funds To Keep People Housed

Providing renters facing eviction with access to legal counsel will help ensure that the \$800 million of rental assistance flowing into the State fulfills its primary purpose—to help families maintain safe, stable housing despite the widespread disruption to the economy precipitated by the COVID-19 pandemic.

As a result of the most recent emergency actions taken to mitigate the economic effects of the COVID-19 crisis, the State will be tasked with distributing over \$462 million in ERAP funds, which can be used for both “financial assistance and housing stability services for renters.”¹¹

⁸ Maryland allocated over \$600,000 from CARES Act funding and other sources to eviction prevention legal services. Through the recently passed RELIEF Act, Maryland also allocated \$3 million toward eviction prevention legal services during FY 2022.

⁹ Governor Jay Inslee signed Washington State Senate Bill 5160 on April 22, 2021, establishing a right to counsel program that will be implemented over the next year with state funds.

¹⁰ HB 18 establishes the Access Fund as a nonlapsing, special fund to be used for the provision of legal services and administrative expenses associated with the Program. Implementation of HB 18, however, is contingent on the appropriation of funding to the Access Fund. See HB 18 at 18-20.

¹¹ Cong. Research Serv., *Emergency Rental Assistance through the Coronavirus Relief Fund* (Mar. 31, 2021), available at <https://crsreports.congress.gov/product/pdf/R/R46688>. Maryland received more than \$258 million in ERAP funds allocated through the Consolidated Appropriations Act of 2021 (“ERAP 1”) and is slated to receive another \$204 million in funding allocated by the American Rescue Plan Act (“ERAP 2”).

This is in addition to the CARES Act rental assistance that the State has allocated, as well as \$257 million in additional ERAP funds that the federal government is allocating directly to eight of the State's most populous jurisdictions. Because 90% of ERAP funds must be used for financial assistance to help eligible households make payments toward rent, rental arrears, and utilities, most of the funds will ultimately go to rental housing providers (i.e., landlords) and utility providers. The overall goal of the funding, however, is to stabilize housing and make sure that individuals and families maintain their homes.

The Program will help the State in the expeditious distribution of these rental assistance funds in several ways. Legal services providers can assist in regulating the allocation of rental assistance and ensuring the amounts paid to the landlords are the correct amount due and owing, allowing the emergency rental assistance to reach the maximum number of households in need. Additionally, in the context of eviction actions, legal counsel can help tenants negotiate with landlords to ensure that the property is maintained in a habitable condition while rental assistance is utilized. Or, if a property owner wrongfully attempts to evict a tenant despite obtaining rental assistance—in violation of the terms of the rental assistance contract with the State—counsel will assist in enforcing any rights the tenant may have under the contract or law. Finally, providing renters with access to counsel will help tenants, landlords, and judges navigate the complicated legal landscape of federal, state, and local laws enacted in the wake of COVID-19, thereby ensuring the enforcement of protections such as the Governor's eviction moratorium.

B. Access to Counsel Will Help Prevent Eviction-Related Homelessness

In addition to helping ensure the efficient and effective use of rental assistance payments, the Program will also provide other economic benefits to the State and its residents. Evictions are a significant driver of homelessness, which inflicts mental, physical, and socio-economic trauma on individuals and families.¹² Homelessness is also expensive to the State and to local jurisdictions. For example, the vast majority of homeless persons are enrolled in Medicaid, and homeless individuals are much more likely to use the emergency room as their primary care physician or be admitted for in-patient care.¹³ Similarly, homelessness is a significant driver of entry into the foster care system, the costs of which are borne in large part by the State.¹⁴ By providing legal counsel to an additional 34,000 income-qualified families facing eviction, the Program could save the State \$90.5 million per year in Medicaid and foster care costs alone.¹⁵

¹² According to the Stout Study and consistent with national estimates, about 25% of persons evicted are likely to become homeless. *See* Stout Study at 68.

¹³ *Id.* at 74-75.

¹⁴ *Id.* at 77.

¹⁵ The estimate of 34,000 households is extrapolated from the Stout Study's estimate of how many households would obtain representation under a fully implemented access to counsel program in Baltimore City. The estimate considers how many tenants are income qualified and will seek legal representation based on data from the Maryland judiciary and the experience of legal services providers. Similarly, the estimated cost savings was developed by using the Stout Study's estimated cost savings or avoidance flowing to the State from the implementation of a right to counsel program in Baltimore City and extrapolating those estimated savings to a statewide program. Specifically, we compared the Stout Study's estimate of \$18.1 million in savings to the State after providing representation to tenants in failure to pay rent ("FTPR") eviction filings in Baltimore City (over 133,000) and other types of eviction cases to the number of FTPR filings and other eviction cases statewide (over 672,000).

Even after accounting for the projected annual cost of operating the Program, the State could realize a net cost savings of up to \$59.5 million per year once the Program is fully implemented.

C. Access to Counsel Will Increase Housing Stability

Providing access to counsel in eviction cases is also a proven, cost-effective means of addressing housing instability, which will endure beyond the COVID-19 crisis. Following a randomized survey of eviction actions in Baltimore City in 2019, and consistent with analogous data from other jurisdictions, the Stout Study found grave differences in tenant versus landlord representation, with landlords represented in 96% of eviction actions while tenants are represented in only 1%.¹⁶ By leveling the playing field between landlords and tenants, access to counsel increases enforcement of State and local statutes intended to protect safe, stable housing and to ensure due process in eviction cases. For example, legal counsel helps enforce State and local laws that, among other things:

- Ensure habitable housing (e.g., housing codes, rent escrow, lead paint regulations);
- Prohibit charging of excessive fees and enforcing unfair lease provisions;
- Prevent retaliatory actions;
- Require compliance with state and local licensing requirements;
- Prohibit unlawful discrimination in housing; and
- Prohibit the denial of essential services.

Providing access to counsel in eviction actions significantly reduces the likelihood of disruptive displacement. To be sure, not all tenants are able to remain in their current unit, but the involvement of legal counsel makes it less likely that a rental household will lose their home. Legal counsel also can often obtain other benefits, such as additional time to move, a neutral landlord reference, and forgiveness of outstanding debt—all of which can prevent a disruptive displacement that causes the most individual and social harms from eviction.

III. Implementing the Program

A. MLSC is an Experienced Administrator of Civil Legal Services Programs

Pursuant to HB 18, Maryland Legal Services Corporation (“MLSC”) will administer the Program across the State.¹⁷ Specifically, HB 18 tasks MLSC with the following responsibilities:

¹⁶ Some landlords are represented not by legal counsel, but by specialized rent court agents. But because those specialized agents are themselves repeat players with significant institutional knowledge regarding the eviction process, landlords gain a significant advantage regardless of whether they are represented by an attorney or an agent.

¹⁷ MLSC is a nonprofit organization whose mission is to ensure low-income Marylanders have access to stable, efficient, and effective civil legal assistance through the distribution of funds to nonprofit legal services organizations. The Maryland General Assembly created MLSC in 1982 to serve as the State’s primary funder of civil legal aid. MLSC is governed by a nine-member board of directors whose members are appointed by the Governor and confirmed by the Maryland Senate.

- Contracting with nonprofit legal services organizations to provide for legal representation to “covered individuals”;¹⁸
- Administering the Access Fund;
- Developing an informational pamphlet for tenants with information about the Program;
- Designating and contracting with community groups to provide outreach and education to tenants about the Program; and
- Issuing an annual report to the Governor and General Assembly that includes the number of individuals served through the Program, an evaluation of case outcomes, and a summary of efforts at tenant engagement and education.

The Program will benefit from MLSC’s experience and expertise in implementing similar scalable projects. Over the past several years, MLSC has sought to complement the growth of advice and referral resources available to Marylanders. Time and time again, MLSC heard from its nonprofit grantees that they were encountering large numbers of Marylanders attempting to go it alone in complex court cases, but the organizations did not have dedicated resources to adequately assist clients in litigation. In response, MLSC launched the Extended Representation Project in July 2018, which prioritizes placing attorneys in court with clients—clients who very likely would have otherwise gone unrepresented.

Through the Extended Representation Project, several grantees launched or expanded rent court projects. With just a handful of staff, pro bono and low bono attorneys, these organizations have seen remarkable results. Using Extended Representation funds, other grants from MLSC, and various other funding, Maryland’s legal services organizations assisted clients in nearly 4,600 cases that benefited more than 12,000 tenants from July 2018 through June 2020. For example:

- More than 5,350 renters avoided eviction from private or public housing;
- More than 1,200 renters delayed their eviction, providing time to seek alternative housing;
- More than 1,200 renters obtained redress for unfair or illegal charges imposed by the landlord or vindicated their rights under their leasing agreements; and
- Nearly 1,500 renters had their rights to decent, habitable housing enforced, including obtaining repairs to their dwelling.

The Extended Representation Project would have helped even more clients if not for the court closures and various moratoria resulting from the COVID-19 pandemic. And while legal services providers helped these 12,000 tenants avoid displacement and potential homelessness, hundreds of thousands more went without representation—many not knowing that legal assistance might be available. Put simply, the Extended Representation Project has essentially served as a pilot project for the Program and is primed to be scaled for greater impact.

HB 18 also establishes an Access to Counsel in Evictions Task Force (the “Task Force”), which is responsible for evaluating the provision of services under the Program, studying funding

¹⁸ HB 18 defines “covered individuals” as tenant households whose incomes do not exceed 50% of the Maryland median income, adjusted for household size. HB 18 at 12.

sources, and making recommendations for improvements to implementation of the Program. MLSC plans to work closely with the Task Force to ensure the successful implementation and operation of the Program.

B. MLSC Is Already Planning for the Initial Implementation of the Program

HB 18 envisions a phased implementation, tasking MLSC with determining a timeline for implementation and setting a goal of full implementation by October 1, 2025. As explained further below, MLSC will work closely with the Task Force on the creation of a multi-year, comprehensive implementation plan. However, given MLSC's many years of experience in funding civil legal aid and its existing relationships with grantees, including 36 civil legal aid providers across the State, MLSC is poised to begin phasing in the Program as soon as monies are allocated to the Access Fund.

Maryland is fortunate to be home to at least seven civil legal services providers with dedicated eviction prevention programs, as well as at least six others who provide eviction prevention services in the course of their more general work. These providers cover all portions of the State, from Western Maryland to the Eastern Shore and everywhere in between. Existing providers do not currently have the capacity to meet the existing need, let alone the rush of evictions that will be filed as eviction moratoria expire. However, MLSC can leverage this existing provider network by making FY 22 grants to organizations that are able to scale up existing services using money from the Access Fund. These organizations will help to bridge the gap until the Program can be fully implemented.

Multi-faceted civil legal aid services will likely make use of staffed legal services programs and engage the private bar to provide pro bono and low bono service. MLSC's nonprofit grantees can lend their expertise by providing input into which models work best in each of Maryland's jurisdictions, where they already tailor their services to best meet the needs of each region. These organizations are well-established and trusted members of their local communities, with the backing and collaboration of a statewide delivery system.

C. MLSC and the Task Force Have the Experience and Expertise Necessary to Plan for the Successful Implementation the Program

Once established on October 1, 2021, the Task Force will begin to advise MLSC on the creation of a comprehensive implementation plan for the Program. Among other things, the implementation plan will account for the following considerations:

- Creating a model for statewide legal services delivery, including an intake and referral system and necessary technology supports;
- Identifying the best methods and materials for tenant organizing, outreach, and education;
- Accounting for variations in needs and existing resources in local jurisdictions;

- Evaluating options for phased-in implementation, including prioritization;¹⁹
- Identifying all implementation costs and sustainable funding sources; and
- Standardizing outcome reporting, analysis, evaluation, and equity assessment.

In developing a comprehensive implementation plan, MLSC and the Task Force will leverage the deep expertise that already exists in Maryland regarding the successful implementation of access to counsel programs, including:

- The Maryland Access to Justice Commission’s legislative task force [report](#) on implementing a right to counsel in human needs cases;
- The [Maryland Attorney General’s COVID-19 Access to Justice Task Force](#), which obtained input from grassroots organizations, civil legal aid organizations, and landlord interests;
- The national expertise of the [National Coalition for Civil Right to Counsel](#), which is housed in the Public Justice Center of Maryland; and
- The presence of national expertise on the Maryland Access to Justice Commission from the [Access to Justice Lab at Harvard University Law School](#) on right to counsel related data collection and program evaluation.

Finally, and importantly, MLSC’s implementation plan will ensure that existing services are incorporated into the Program. This, in turn, will ensure equitable and efficient coverage of services across the State, making the Program easier to navigate for both providers and tenants while also providing consistency for courts and landlords who may operate in multiple jurisdictions.

IV. Funding the Program

A. The Cost of Full Implementation

MLSC, in conjunction with the Task Force, will ultimately study and evaluate the funding amounts and sources needed to fully implement the Program. However, our initial estimates suggest that, once fully implemented, the Program will provide representation for roughly 34,000 additional covered households at an annual cost of approximately \$31 million.²⁰ Broadly speaking, the costs associated with full implementation fall into the following categories:

¹⁹ Most jurisdictions that have already adopted access to counsel programs have used a phased approach to implementation, with varying models of prioritization. Examples of this include targeting representation first to certain geographical areas (e.g., New York City’s use of zip codes); populations (e.g., specific demographic groups, such as families with children); income groups (e.g., Baltimore City’s use of households with 50% of area median income); or all access (e.g., phasing in resources and availability without a further narrowing of scope).

²⁰ See *supra* note 15. As with our estimates of the potential cost savings associated with a statewide access to counsel program, the estimated cost of the Program, once fully implemented, is based on (1) extrapolations from the Stout Study’s analysis of the costs associated with implementing a right to counsel program in Baltimore City; (2) statewide data regarding the number of FTPR, tenant holding over and breach of lease actions; and (3) data reported by legal services providers.

Expense Category	Amount (annual)
Funding for legal services	\$28.75 million
Outreach and education to ensure Marylanders are aware of the Program	\$2 million
MLSC administrative costs needed to support a fully implemented Program, including program evaluation	\$250,000

Notably, the additional funding for legal representation incorporates the costs associated with the expansion of legal services providers' existing infrastructure. Those costs will include the creation of numerous positions for new and experienced attorneys, paralegals, case management, and other support staff; employee training; and the development and deployment of case intake technology.

B. Immediate Funding Request

Maryland has a unique opportunity to fund the implementation of the Program through the allocation of a small part of the billions of dollars in federal funding that has been allocated to the State and local jurisdictions in the wake of the economic crisis precipitated by the COVID-19 pandemic. Allocating these monies to the Access Fund to support implementation of the Program would make Maryland a nationwide leader in using federal recovery funds to stabilize rental housing through the expansion of legal services infrastructure.²¹

We urge the Governor and the Department of Budget and Management to allocate \$68 million in federal funds to the Access Fund for use from FY 2022 through FY 2025. Specifically, we are requesting an allocation to the Access Fund of the full 10% of ERAP funding that is available for housing stability services (\$20.4 million) through 2025, and of \$47.6 million in CSFRF that are available for use through 2024. As explained further in the appendix to this proposal, the federal government has made clear that both funding sources can be used to provide legal representation for households facing eviction proceedings.

MLSC—with support and input from the Task Force—would be tasked with developing a budget for the use of these funds consistent with HB 18's vision for a phased implementation of the Program to be completed by October 1, 2025. Taking into account the costs of increased legal representation, administrative expenses, and outreach and education, a preliminary four-year projected budget might proceed on the following schedule:

²¹ States around the country are contemplating use of these funds for access to counsel for tenants in eviction cases. For example, Governor Ned Lamont has recently recommended allocating \$20 million of Connecticut's CSFRF funding toward providing tenants legal counsel in eviction cases and related outreach and education. See State of Connecticut, *Connecticut's Plan for the American Rescue Plan Act of 2021*, at 18 (Apr. 26, 2021), available at <https://portal.ct.gov/-/media/Office-of-the-Governor/News/2021/20210426-Governor-Lamont-ARPA-allocation-plan.pdf>. A number of other states—including Michigan, Maine, Oklahoma, Rhode Island, and Wyoming—have also committed to allocating recent federal funding toward expanded access to counsel for tenants facing eviction.

FY 2022	\$5 - \$7 million
FY 2023	\$12 - \$14 million
FY 2024	\$20 - \$22 million
FY 2025	\$29 - \$31 million

As explained in Part III above, there is significant existing infrastructure that can be leveraged to proceed with the initial implementation of the Program. Therefore, although HB 18 does not go into effect until October 1, 2021, we request that funds be made available immediately so that MLSC can plan for the timely deployment of program start-up costs, including the hiring of administrative staff, the engagement of program evaluators, and technology considerations for client outreach and intake.

APPENDIX

Emergency Rental Assistance Program

Ten percent of federal funds appropriated through the Emergency Rental Assistance Program (“ERAP 1”) of the Consolidated Appropriations Act of 2021 may be used for “housing stability services,” defined to include those services which “enable eligible households to maintain or obtain housing,” including “legal services or attorney’s fees related to eviction proceedings and maintaining housing stability.”¹ We understand that Maryland received \$258 million and certain local jurisdictions within Maryland received \$143 million, a total of \$401.5 million in ERAP 1 funding, which must be expended by September 1, 2022. The majority of these funds may have already been awarded or be in the process of being awarded, and it is unclear whether any of those funds have been provided to expand access to counsel in eviction cases.² To the extent that any of these funds have not yet been allocated, up to 10% of those funds could be allocated to the Access Fund created by HB 18.

Significant additional funding has been allocated pursuant to the American Rescue Plan Act (“ARPA”) for a second round of the emergency rental assistance program (“ERAP 2”). Maryland is slated to receive \$204 million from ERAP 2, along with an additional \$114 million being directly distributed to local jurisdictions for a total of \$318 million in ERAP 2.³ As with ERAP 1, 10 percent of those funds may be used for “housing stability services.”⁴ Significantly, however, housing stability services provided using ERAP 2 funds “do not have to be related to the COVID-19 outbreak.”⁵ Funds from ERAP 2 must be expended by September 30, 2025 or, in some circumstances, September 30, 2027.

Coronavirus State Fiscal Recovery Funds

Maryland is receiving \$3.87 billion in Coronavirus State Fiscal Recovery Funds (“CSFRF”) from ARPA. These funds may be used for a broad range of purposes, including “to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits.”⁶ On May 10, 2021, the Treasury Department issued an Interim Final Rule to implement the CSFRF, which makes clear that these funds may be used to provide “[a]ssistance to households or populations facing negative economic impacts due to COVID-19,” including

¹ U.S. Dep’t of the Treasury, Emergency Rental Assistance: Frequently Asked Questions, at 11-12 (revised May 7, 2021) (“Treasury Guidance”), <https://home.treasury.gov/system/files/136/ERA2FAQs%205-6-21.pdf>.

² We understand and appreciate that the Department of Housing and Community Development previously allocated \$607,000 in federal funds for the expansion of legal services.

³ Cong. Research Serv., *Emergency Rental Assistance through the Coronavirus Relief Fund* (Mar. 31, 2021), available at <https://crsreports.congress.gov/product/pdf/R/R46688>.

⁴ American Rescue Plan Act of 2021, H.R. 1319, 117th Cong. § 3201; see Treasury Guidance at 11-12 (describing housing stability services “for purposes of” both ERAP 1 and ERAP 2).

⁵ Treasury Guidance at 11.

⁶ American Rescue Plan Act of 2021, H.R. 1319, 117th Cong. § 9901.

“counseling and legal aid to prevent eviction or homelessness.”⁷ These funds must be expended no later than December 31, 2024.

⁷ U.S. Dep’t of the Treasury, Interim Final Rule, Coronavirus State and Local Fiscal Recovery Funds, at 33 (May 10, 2021), <https://home.treasury.gov/system/files/136/FRF-Interim-Final-Rule.pdf>.